

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.
Daniel Riley

Criminal No. 07-cr-189-1-GZS

O R D E R

Defendant has again filed an "Ex Parte Motion To Authorize Subpoenas for Witnesses Out of and In State." Once again, the court can not grant the motion. It is denied without prejudice to filing a new motion which complies with Fed. R. Crim. P. 17(b).

"Compulsory process under Rule 17(b) is not an absolute right, but like many other trial decisions, is a matter committed to the sound discretion of the trial court." United States v. LeAmous, 754 F.2d. 795, 797 (8th Cir. 1985). "The burden of demonstrating the need for Rule 17(b) witnesses is on the party seeking their production. Id. at 798.

With respect to each witness defendant requests to have subpoenaed, defendant, in an ex parte motion must separately identify:

1. The desired witness;
2. His/her last known address;

3. A brief statement of the expected testimony of that witness which defendant claims is necessary to an adequate defense.

The court will not permit witnesses to be subpoenaed whose testimony is not material or which is repetitive.

The motion (Document no. 289) is denied without prejudice to refile in accordance with this order.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: March 4, 2008

cc: Daniel Riley, pro se
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